IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG

BANK OF CHARLES TOWN,

Plaintiff,

v.

CIVIL ACTION NO. 3:10-CV-00102-JPB
(Removed from the Circuit Court of Jefferson County, No. 10-C-312)

ENCOMPASS INSURANCE,
ENCOMPASS INDEMNITY COMPANY,
MICHELLE GROSSMAN,
JOHN WILSON, and JOHN OR JANE DOE,

Defendants.

RULE 26(f) REPORT

Guideline for parties and attorneys:
The parties are advised to use the *Worksheet for Report of Parties Planning Meeting* (Form USDC/ATTY-004 located on the Court's website at www.wvsd.uscourts.gov) and the suggested guidelines contained in the form's comments.

1. Pursuant to Fed.R.Civ.P. 26(f), a meeting was held on **November 4, 2010.** Those participating were:

   Laura Davis for Plaintiff.

   Brent K. Kesner for Defendants Encompass Insurance Company and Encompass Indemnity Company.

   E. Kay Fuller for Defendants.

2. Pre-Discovery Disclosures. The parties will exchange by **December 3, 2010** the information required by Fed.R.Civ.P.26(a)(1).

3. The Parties should be allowed until **January 17, 2011** to join additional parties and until **January 17, 2011** to amend the pleadings.

4. Discovery Plan. The parties jointly propose to the court the following discovery plan: [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

Discovery will be needed on the following subjects:

A) The facts and circumstances surrounding Plaintiff's claim for breach of contract for a homeowners policy of insurance issued to Monte J. Palmer and Suzette S. Palmer, including the circumstances surrounding the issuance of the subject policy;

B) Whether Defendants, or any of them, violated the Unfair Trade Practices Act in connection with its handling and investigation of Plaintiff's claim surrounding the claim for water loss under the Palmer policy of insurance;

C) Whether Plaintiff is entitled to compensation under Encompass Indemnity Company's homeowner's Policy No. 281216751 for the water damage claim at the Palmers' former residence, located at 11 Seattle Slew Way, Charles Town, West Virginia; and

D) The factual circumstances surrounding Plaintiff's claims of estoppel and waiver by Encompass Insurance Company and/or Encompass Indemnity Company concerning the Palmers' insurable interest and the Bank of Charles Town's insurable interest.

Disclosure of electronically stored information should be handled as follows:

The parties will produce paper copies of electronically stored information.

The parties have agreed to an order regarding claims of privilege or of protection as trial-preparation material asserted after production, as follows:

Not applicable.

This action **is not** suitable for designation as a complex case requiring special case management procedures and additional pretrial conferences. If the parties and attorneys believe that the case is complex, the basis for that belief is:

Not applicable.

The last date to serve discovery requests is **May 6, 2011.** The last date on which to take a discovery deposition is **July 8, 2011**. The last date on which to take a discovery deposition is known as the "discovery completion date."

The parties **do** adopt the discovery limits set forth in the Federal Rules of Civil Procedure. If the parties and attorneys believe that more discovery is needed, the basis for that belief is:

Not applicable.

Reports from retained experts under Rule 26(a)(2) due:

By the party with the burden of proof on an issue: **March 25, 2011**;
By the party not bearing the burden of proof on an issue: **April 25, 2011**; and
Expert witness disclosures intended solely to contradict or rebut evidence on the same issue identified by another party: **May 9, 2011.**

5. Magistrate judges will resolve discovery disputes. The parties **do not consent** to have a United States magistrate judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment.

6. Mediation shall take place on or before **July 29, 2011.**

7. Potential dispositive motions shall be filed by **August 5, 2011**, with responses and replies filed according to the Local Rules.

8. The parties request a pretrial conference on **October 4, 2011**.

   The Plaintiff shall submit a proposed pretrial order to Defendant on or before **September 20, 2011**.

   The Defendant shall compile a proposed integrated pretrial order and submit it to chambers of the presiding judicial officer on or before **September 30, 2011.**

9. Where applicable, proposed jury instructions shall be exchanged and transmitted to chambers of the presiding judicial officer in WordPerfect format on or before **October 14, 2011.**

10. Where applicable, proposed findings of fact and conclusions of law shall be exchanged and transmitted to chambers of the presiding judicial officer in WordPerfect format on or before**: October 14, 2011**.

11. A final settlement conference will take place on **October 17, 2011.**

12. The case should be ready for trial by **October 18, 2011**. The Plaintiff expects the trial to take a minimum of **five days**. Defendants expect the trial to take approximately **3 days**.

The parties **do not request** a conference with the Court before entry of the scheduling order.

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